

76-3-203.8. Increase of sentence if dangerous weapon used.

(1) As used in this section, "dangerous weapon" has the same definition as in Section 76-1-601.

(2) If the trier of fact finds beyond a reasonable doubt that a dangerous weapon was used in the commission or furtherance of a felony, the court:

(a) (i) shall increase by one year the minimum term of the sentence applicable by law; and

(ii) if the minimum term applicable by law is zero, shall set the minimum term as one year; and

(b) may increase by five years the maximum sentence applicable by law in the case of a felony of the second or third degree.

(3) A defendant who is a party to a felony offense shall be sentenced to the increases in punishment provided in Subsection (2) if the trier of fact finds beyond a reasonable doubt that:

(a) a dangerous weapon was used in the commission or furtherance of the felony; and

(b) the defendant knew that the dangerous weapon was present.

(4) If the trier of fact finds beyond a reasonable doubt that a person has been sentenced to a term of imprisonment for a felony in which a dangerous weapon was used in the commission of or furtherance of the felony and that person is subsequently convicted of another felony in which a dangerous weapon was used in the commission of or furtherance of the felony, the court shall, in addition to any other sentence imposed including those in Subsection (2), impose an indeterminate prison term to be not less than five nor more than 10 years to run consecutively and not concurrently.

Amended by Chapter 276, 2004 General Session